

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

STEVEN LEON DAVIS, Individually and	)	
As Personal Representative of the Estate of	)	
MARY ALICE DAVIS, Deceased,	)	
	)	
Plaintiff,	)	
v.	)	CASE NO. 2:12-CV-0373JMS-WGH
	)	
WILLIAM RYAN SUTHERLAND, M.D.,	)	
HIRISADARAHALLY NAGARAJA, M.D., and	)	
UNION HOSPITAL, INC.,	)	
Defendants.	)	

SECOND AMENDED COMPLAINT FOR DAMAGES  
AND  
DEMAND FOR TRIAL BY JURY

COUNT I

Plaintiff Steven Leon Davis, individually and as personal representative of the estate of Mary Alice Davis, deceased, by counsel, for his cause of action against the defendants alleges and states the following:

1. At all relevant times mentioned herein, Steven Leon Davis was the lawful husband of Mary Alice Davis. He is a citizen of Illinois and the duly appointed, acting, and qualified personal representative of the estate of Mary Alice Davis, having been so appointed by the Edgar County Circuit Court, State of Illinois, Cause No. 2009-P-18, on April 15, 2009. The decedent was a citizen of the state of Illinois.

2. William Ryan Sutherland, M.D., is a citizen of Kentucky. Hirisadarahally Nagaraja, M.D., is a citizen of Indiana. Union Hospital, Inc., is a domestic corporation incorporated under the laws of Indiana with its principal place of business in Indiana.

3. The amount in controversy, without interests and costs, exceeds the sum or value of \$75,000 as specified by 28 U.S.C. §1332. In addition to the personal injuries and damages alleged below, plaintiff incurred more than \$700,000 in medical expenses on account of the negligent treatment of Mary Davis.

4. At all relevant times mentioned herein, William Ryan Sutherland, M.D., Union Hospital, Inc., and Hirisadarahally Nagaraja, M.D., were qualified health care providers pursuant to I.C. 34-18-1-1 et seq. Because each defendant is a qualified health care provider under the Indiana Medical Malpractice Act, each defendant has liability coverage of \$250,000.00, with additional coverage from the Indiana Patient's Compensation Fund. As a qualified health care provider, each defendant is jointly and severally liable for all of plaintiff's damages. Plaintiff's damages exceed the sum or value of \$75,000 exclusive of interests and costs as specified by 28 U.S.C. §1332.

5. Pursuant to Indiana law, this claim was presented to a medical review panel which issued a unanimous opinion on or about October 9, 2012, that William Ryan Sutherland, M.D., and Hirisadarahally Nagaraja, M.D., breached the standard of care. A copy of the medical review panel opinion is attached as Exhibit 1.

6. At all relevant times mentioned herein, Mary Alice Davis had a physician patient relationship with William Ryan Sutherland, M.D., and Hirisadarahally Nagaraja, M.D., respectively.

7. On or about July 19, 2007, Hirisadarahally Nagaraja, M.D., commenced the care and treatment of Mary Alice Davis.

8. On or about October 19, 2007, William Ryan Sutherland, M.D., commenced the care and treatment of Mary Alice Davis, including surgery performed on or about November 27,

2007 at Union Hospital, Inc., where she received care and treatment from Union Hospital, Inc., by its agents and employees.

9. The care provided to Mary Alice Davis by William Ryan Sutherland, M.D.; Hirisadarahally Nagaraja, M.D.; and Union Hospital, Inc., by its agents and employees, was negligent.

10. As a direct and proximate result of the negligence of William Ryan Sutherland, M.D.; Hirisadarahally Nagaraja, M.D.; and Union Hospital, Inc., by its agents and employees, and each of them, Mary Alice Davis endured additional surgical procedures including splenectomy and pancreatectomy; suffered debilitating injuries including respiratory failure, sepsis, DIC, renal failure; physical pain and suffering; emotional distress; and incurred hospital, medical, rehabilitation, and other expenses, all of which continued until her death.

11. As a direct and proximate result of the negligence of William Ryan Sutherland, M.D.; Hirisadarahally Nagaraja, M.D.; and Union Hospital, Inc., by its agents and employees, and each of them, Steven Leon Davis suffered loss of love and companionship and support of his wife, and incurred medical and other expenses and losses on account of her injuries.

WHEREFORE, Steven Leon Davis, individually and as personal representative of the estate of Mary Alice Davis prays for damages against the defendants, jointly and severally, in an amount which will fully and fairly compensate for these losses, the costs of this action, trial by jury, and for all other just and proper relief.

## COUNT II

Plaintiff Steven Leon Davis, individually and as personal representative of the estate of Mary Alice Davis, deceased, by counsel, for his cause of action against the defendants alleges and states the following:

1. At all relevant times mentioned herein, Steven Leon Davis was the lawful husband of Mary Alice Davis. He is a citizen of Illinois and the duly appointed, acting, and qualified personal representative of the estate of Mary Alice Davis, having been so appointed by the Edgar County Circuit Court, State of Illinois, Cause No. 2009-P-18, on April 15, 2009. The decedent was a citizen of the state of Illinois.

2. William Ryan Sutherland, M.D., is a citizen of Kentucky. Hirisadarahally Nagaraja, M.D., is a citizen of Indiana. Union Hospital, Inc., is a domestic corporation incorporated under the laws of Indiana with its principal place of business in Indiana.

3. The amount in controversy, without interests and costs, exceeds the sum or value of \$75,000 specified by 28 U.S.C. §1332. Plaintiff claims damages for the wrongful death of Mary Davis which includes more than \$700,000 in medical expenses on account of the negligent treatment of Mary Davis.

4. At all relevant times mentioned herein, William Ryan Sutherland, M.D., Union Hospital, Inc., and Hirisadarahally Nagaraja, M.D., were qualified health care providers pursuant to I.C. 34-18-1-1 et seq. Because each defendant is a qualified health care provider under the Indiana Medical Malpractice Act, each defendant has liability coverage of \$250,000.00, with additional coverage from the Indiana Patient's Compensation Fund. As a qualified health care provider, each defendant is jointly and severally liable for all of plaintiff's damages. Plaintiff's

damages exceed the sum or value of \$75,000 exclusive of interests and costs as specified by 28 U.S.C. §1332.

5. Pursuant to Indiana law, this claim was presented to a medical review panel which issued a unanimous opinion on or about October 9, 2012, that William Ryan Sutherland, M.D., and Hirisadarahally Nagaraja, M.D., breached the standard of care. A copy of the medical review panel opinion is attached as Exhibit 1.

6. At all relevant times mentioned herein, Mary Alice Davis had a physician patient relationship with William Ryan Sutherland, M.D., and Hirisadarahally Nagaraja, M.D., respectively.

7. On or about July 19, 2007, Hirisadarahally Nagaraja, M.D., commenced the care and treatment of Mary Alice Davis.

8. On or about October 19, 2007, William Ryan Sutherland, M.D., commenced the care and treatment of Mary Alice Davis, including surgery performed on or about November 27, 2007 at Union Hospital, Inc., where she received care and treatment from Union Hospital, Inc., by its agents and employees.

9. The care provided to Mary Alice Davis by William Ryan Sutherland, M.D.; Hirisadarahally Nagaraja, M.D.; and Union Hospital, Inc., by its agents and employees, was negligent.

10. As a direct and proximate result of the negligence of William Ryan Sutherland, M.D.; Hirisadarahally Nagaraja, M.D.; and Union Hospital, Inc., by its agents and employees, and each of them, Mary Alice Davis endured additional surgical procedures including splenectomy and pancreatectomy; suffered debilitating injuries including respiratory failure,

sepsis, DIC, renal failure; incurred additional medical and treatment expenses, and died as a result of her injuries.

11. As a direct and proximate result of the negligence of William Ryan Sutherland, M.D.; Hirisadarahally Nagaraja, M.D.; and Union Hospital, Inc., by its agents and employees, and each of them, Steven Leon Davis suffered the loss of love and companionship and support on account of the death of his wife, and incurred funeral, burial, medical, and other expenses including attorneys' fees, and litigation expenses on account of her death.

12. As a direct and proximate result of the negligence of William Ryan Sutherland, M.D.; Hirisadarahally Nagaraja, M.D.; and Union Hospital, Inc., by its agents and employees, and each of them, the estate of Mary Alice Davis has incurred medical and hospital expenses, funeral and burial expenses, attorneys' fees, costs of administration, and litigation expenses on account of her death.

WHEREFORE, Steven Leon Davis, individually and as personal representative of the estate of Mary Alice Davis prays for damages against the defendants, jointly and severally, in an amount which will fully and fairly compensate for these losses, the costs of this action, trial by jury, and for all other just and proper relief.

Respectfully submitted,

GARAU GERMANO HANLEY & PENNINGTON, P.C.

/s/ Deborah K. Pennington

Deborah K. Pennington, #6559-36

Jerry A. Garau, #10822-49

151 N. Delaware Street, Suite 1515

Indianapolis, IN 46204

Phone: (317) 822-9530; Fax: (317) 822-9531

**CERTIFICATE OF SERVICE**

I hereby certify that on the 13<sup>th</sup> day of February, 2013, the foregoing pleading was filed electronically with the United States District Court. Notice of this filing will be sent to the following attorneys of record by operation of the Court's electronic filing system, parties may access this filing through the Court's system:

William Drummy  
[wwdrummy@wilkinsonlaw.com](mailto:wwdrummy@wilkinsonlaw.com)

Edward J. Liptak  
[Liptak@carsonboxberger.com](mailto:Liptak@carsonboxberger.com)

Jeremy Dilts  
[Dilts@carsonboxberger.com](mailto:Dilts@carsonboxberger.com)

Edna M. Koch  
[ekoch@zcklaw.com](mailto:ekoch@zcklaw.com)

Jennifer Padgett  
[jpadgett@zcklaw.com](mailto:jpadgett@zcklaw.com)

/s/Deborah K. Pennington